INDEX

	Page
Opinion below	1
Jurisdiction	1
Questions presented	2
Statute involved	2
Statement	3
Summary of argument	9
Argument:	
I. The District Court's holding that petitioner voluntarily remained out of the jurisdiction of the United States in order to evade military service was based upon ample substantive evidence and should be accepted	16
II. On the findings of the courts below, petitioner was expatriated under Section 401 (j) of the Nationality Act of 1940 (as amended)	26
A. The Act applied to draft-evaders remaining abroad as well as those who left the country	26
B. The Executive Agreement of January 22, 1943, did not remove petitioner from the coverage of the Act	28
C. Section 401 (j) covers draft-evaders under 21 years of age	36
III. Congress has the constitutional power to provide for the loss of United States nationality by citizens who, in time of war, voluntarily remain outside the jurisdiction of the United States to evade or avoid military service	42
A. The power to expatriate is an implied attribute of sovereignty and is not restricted to instances where the citizen desires to give up his American nationality	44

367020—55——1

Argument—Continued
III. Congress has the constitutional power, etc.—Continued
Page
B. There is a reasonable basis for prescribing loss of nationality for those who remain out of the country in order to evade military service 54
Conclusion 63
Appendix 64

CITATIONS

Cases:

Acheson v. *Maenza*, 202 F. 2d 453 53
Acheson v. *Mariko Kuniyuki*, 189 F. 2d 741, 190 F. 2d 897, certiorari denied, 342 U. S. 942 .. 22, 46, 53
Acheson v. *Murakami*, 176 F. 2d 953 23
Acheson v. *Wohlmuth*, 196 F. 2d 866, certiorari denied, 344 U. S. 833 ..... 46, 51
Augello v. *Dulles*, 220 F. 2d 344 23
Baglivo v. *Day*, 28 F. 2d 44 38
Bruni v. *Dulles*, 121 F. Supp. 601 22
Cantoni v. *Acheson*, 88 F. Supp. 576 22
Carver, In re, 142 Fed. 623 59
Cavender v. *United States*, 8 C. Cls. 281 59
Coumas v. *Brownell*, 222 F. 2d 331 22
Doreau v. *Marshall*, 170 F. 2d 721 23
Dos Reis v. *Nicolls*, 161 F. 2d 860 ..... 23, 53
Fong Yue Ting v. *United States*, 149 U. S. 698 .. 35
Gotcheus v. *Matheson*, 58 Barb. 152 59
Griffen, Ex parte, 237 Fed. 445 51
Hardy v. *Commissioner of Internal Revenue*, 125 F. 2d 863 25
Harrison v. *United States*, 42 F. 2d 736 25
Hisao Murata v. *Acheson*, 99 F. Supp. 591 52
Holt v. *Holt*, 59 Me. 464 59
Huber v. *Reily*, 53 Pa. 112 60
Kasumi Nakashima v. *Acheson*, 98 F. Supp. 11 .. 46
Kawakita v. *United States*, 343 U. S. 717 .... 45, 50, 52
Kiyokuro Okimura v. *Acheson*, 99 F. Supp. 587 .. 52
Kozdy-Reich v. *Marshall*, 88 F. Supp. 787 22

Cases—Continued

	Page
Knauer v. *United States*, 328 U. S. 654	18, 21, 57
Kurtz v. *Moffitt*, 115 U. S. 487	59
Lapides v. *Clark*, 176 F. 2d 619 certiorari denied, 338 U. S. 860	45, 56, 62
Mackenzie v. *Hare*, 239 U. S. 299	14, 43, 44, 49, 55, 62
Mandoli v. *Acheson*, No. 15, Oct. Term, 1952	52
Mandoli v. *Acheson*, 344 U. S. 133	45, 48, 50, 52
Martinez v. *McGrath*, 108 F. Supp. 155	19
McAllister v. *United States*, 348 U. S. 19	18
McCafferty v. *Guyer*, 59 Pa. 109	60
McGrath v. *Abo*, 186 F. 2d 766, certiorari denied, 342 U. S. 832	37, 41
Miles v. *United States*, 103 U. S. 304	11, 25
Milton v. *United States*, 110 F. 2d 556	25
Miranda v. *Clark*, 180 F. 2d 257	46, 53
Moser v. *United States*, 341 U. S. 41	35
Nieto v. *McGrath*, 108 F. Supp. 150	19
Opper v. *United States*, 348 U. S. 84	26
Perkins v. *Elg*, 307 U. S. 325	38, 45, 53
Ponce v. *McGrath*, 91 F. Supp. 23	19
Revedin v. *Acheson*, 194 F. 2d 482, certiorari denied, 344 U. S. 820	46, 51
Savorgnan v. *United States*, 338 U. S. 491	14, 45, 48, 49
Scavone v. *Acheson*, 103 F. Supp. 59	22, 46
Schoeps v. *Carmichael*, 177 F. 2d 391 certiorari denied, 339 U. S. 914	25
Severance v. *Healey*, 50 N. H. 448	60
State v. *Symonds*, 57 Me. 148	60
State Farm Mut. Auto. Ins. Co. v. *Porter*, 186 F. 2d 834	25
United States v. *Curtiss-Wright Corp.*, 299 U. S. 304	45
United States v. *Snow*, 27 Fed. Cas. (No. 16,350) 1255	59
United States v. *Wong Kim Ark*, 169 U. S. 649	47
Vidales v. *Brownell*, 217 F. 2d 136	53
Warde v. *United States*, 158 F. 2d 651	25
Witmer v. *United States*, 348 U. S. 375	20
Wittus, In re, 47 F. 2d 652	38
Wong Ken Foon v. *Brownell*, 218 F. 2d 444	25

Constitution of the United States: Page

Art. 1, Sec. 8 ..... 44, 59

Fourteenth Amendment, Sec. 1 ..... 44, 58

Statutes:

Act of March 3, 1865, Sec. 21, 13 Stat. 490 ..... 43, 58

Act of July 27, 1868, 15 Stat. 223, Rev. Stat. 1999 ..... 49, 58

Act of August 22, 1912, 37 Stat. 356 60

Citizenship Act of 1907, 34 Stat. 1228 48

Immigration and Nationality Act of 1952, 66 Stat. 163, 8 U. S. C. 1481–1489:

Sec. 349 3

Secs. 349–357 49

Nationality Act of 1940 (54 Stat. 1137, as amended by the Acts of January 20, 1944 (58 Stat. 4), July 1, 1944 (58 Stat. 677) and September 27, 1944 (58 Stat. 746), 8 U. S. C. (1946 ed.) 501, *et seq.*):

Section 314 40

Section 315 40

Section 316 40

Section 331 40

Section 401 (a) 37, 40, 64

Section 401 (b) 37, 65

Section 401 (c) 13, 37, 65

Section 401 (d) 37, 65

Section 401 (e) 37, 65

Section 401 (f) 37, 65

Section 401 (g) 37, 60, 65

Section 401 (h) 37, 40, 66

Section 401 (i) 37, 40, 66

Section 401 (j) 2, 37, 66

Section 403 (b) 37, 40, 66

Section 503 3

Section 504 60

Miscellaneous:

American Law Institute, *Model Code of Evidence* (1942) 24

Citizenship of Grover Cleveland Bergdoll, 39 Op. A. G. 303 59

Miscellaneous—Continued

	Page
Executive Agreement of January 22, 1943 (E. A. S. 323, 57 Stat. 973)	28, 29
Executive Order No. 6115 of April 25, 1933	39
Flournoy, *Naturalization and Expatriation* (1922), 31 Yale L. J. 702	48
III Hackworth, *Digest of International Law:*	
Secs. 242–250	48
p. 271	38
pp. 276–279	59
Hearings before the House Committee on Immigration and Naturalization, 76th Cong., 1st Sess., on H. R. 6127, superseded by H. R. 9980	35, 39, 40, 60
H. Rept. No. 1229, 78th Cong., 2d Sess., pp. 1–2	61
II Hyde, *International Law Chiefly as Interpreted and Applied in the United States* (1945 ed.), Secs. 376–387A	48
Moore, *The Principles of American Diplomacy, ch. VII, reported in IV Collected Papers of John Bassett Moore*, pp. 388–406	48
III Moore, *Digest of International Law*, Secs. 431–469	48
Presidential Proclamation 2597, 8 F. R. 14595	32, 37
Roche, *Loss of American Nationality*, 99 U. of Pa. L. Rev. 25, 50	35
Selective Service System, Local Board Memorandum No. 189, issued Feb. 9, 1944	35
Tsiang, *The Question of Expatriation in America prior to 1907 (1942), Johns Hopkins University Studies in Historical and Political Science*, Series LX, No. 3	48
5 Vernier, *American Family Laws*, § 282	38
4 Wigmore, *Evidence* (3d ed.), § 1048	11, 24
4 Wigmore, *Evidence*, § 1055	26
7 Wigmore, *Evidence* (3d ed.) § 2075, p. 406	26